

CRS Report for Congress

Proliferation Security Initiative (PSI)

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Proliferation Security Initiative (PSI)

Summary

The Proliferation Security Initiative (PSI) was formed to increase international cooperation in interdicting shipments of weapons of mass destruction (WMD), their delivery systems, and related materials. The Initiative was announced by President Bush on May 31, 2003. PSI does not create a new legal framework but aims to use existing national authorities and international law to achieve its goals.

Initially, 11 nations signed on to the “Statement of Interdiction Principles” that guides PSI cooperation. As of December 2007, 86 nations have formally committed to PSI participation. PSI has no secretariat but an Operational Experts Group coordinates activities. The State Department credits PSI with halting 11 WMD-related transfers from 2004 to 2005, and more than two dozen from 2005 to 2006. PSI participants conducted 32 joint interdiction training exercises as of October 2007.

Although WMD interdiction efforts took place with international cooperation before PSI was formed, supporters argue that PSI training exercises and boarding agreements give a structure and expectation of cooperation that will improve interdiction efforts. Many observers believe that PSI’s “strengthened political commitment of like-minded states” to cooperate on interdiction is a successful approach to counter-proliferation policy. But some caution that it may be difficult to measure the initiative’s effectiveness, guarantee even participation, or sustain the effort over time in the absence of a formal multilateral framework. This report will be updated as events warrant.

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Proliferation Security Initiative (PSI)

Background

In the December 2002 National Strategy to Combat Weapons of Mass Destruction (WMD) Proliferation, the Bush Administration first articulated the importance of countering proliferation once it has occurred and managing the consequences of WMD use. In particular, interdiction of WMD-related goods gained more prominence. U.S. policy sought to “enhance the capabilities of our military, intelligence, technical, and law enforcement communities to prevent the movement of WMD materials, technology, and expertise to hostile states and terrorist organizations.”¹

President Bush unveiled the Proliferation Security Initiative (PSI) in Krakow, Poland, on May 31, 2003. Deemed “foremost among President Bush’s efforts to stop WMD proliferation,” PSI appears to be a new channel for interdiction cooperation outside of treaties and multilateral export control regimes.² It may informally expand the number of cooperating countries without expanding membership in export control groups (Nuclear Suppliers’ Group, Australia Group, and the Missile Technology Control Regime).³

PSI was started partially in response to legal gaps revealed in an incomplete interdiction of the *So San*, a North Korean-flagged ship that was carrying Scud missiles parts to Yemen in December 2002. It was interdicted on the high seas by a Spanish warship after a tip from American intelligence. The boarding was legal because there was no ship under that name in the North Korean registry. Inspectors found 15 complete Scud B missiles, 15 warheads, and missile fuel oxidizer hidden on board. However, U.S. and Spanish authorities had no legal basis to seize the cargo, and the ship was released. Yemen claimed ownership of the missiles and reportedly promised the United States that it would not retransfer the items or purchase additional missiles from North Korea. While it is not clear that if this incident had occurred after PSI was formed the outcome would have been different,

¹ White House, *National Strategy to Combat Weapons of Mass Destruction (WMD)*, December 2002, p. 2.

² John R. Bolton, former Under Secretary for Arms Control and International Security, Testimony Before the House International Relations Committee, “The Bush Administration’s Nonproliferation Policy: Successes and Future Challenges,” March 30, 2004.

³ See CRS Report RL31559, *Proliferation Control Regimes: Background and Status*, by Sharon Squassoni, Steve Bowman, and Steven A. Hildreth.

it was clearly an impetus to quickly bring a multilateral interdiction coordination mechanism to fruition.⁴

Ten nations initially joined the United States to improve cooperation to interdict shipments (on land, sea, or in the air) of WMD, their delivery systems, and related materials. Six other nations joined subsequently, although Denmark and Turkey did not join as “core members” (see **Table 1** below). According to State Department officials, the core group defined the basic principles of interdiction and worked to expand support, but was disbanded in August 2005 after India complained of discrimination among PSI members. The United States is strongly encouraging India to join PSI, but with little success so far.⁵

Table 1. PSI Founding Members

| North America | Europe | Asia/Pacific |
|----------------------------|-----------------------------|------------------------|
| Canada | Denmark (not core) | Australia ^a |
| United States ^a | France ^a | Japan ^a |
| | Germany ^a | Singapore |
| | Italy ^a | |
| | Netherlands ^a | |
| | Norway | |
| | Poland ^a | |
| | Portugal ^a | |
| | Russia | |
| | Spain ^a | |
| | Turkey (not core) | |
| | United Kingdom ^a | |

Source: U.S. Department of State.

a. Denotes member since 2003.

⁴ Jofi Joseph, “The Proliferation Security Initiative: Can Interdiction Stop Proliferation?” *Arms Control Today*, June 2004, at [http://www.armscontrol.org/act/2004_06/Joseph.asp]; Andrew C. Winner, “The Proliferation Security Initiative: The New Face of Interdiction,” *The Washington Quarterly*, Spring 2005, at [http://www.twq.com/05spring/docs/05spring_winner.pdf].

⁵ Stephanie Lieggi, “Proliferation Security Initiative Exercise Hosted by Japan Shows Growing Interest in Asia But No Sea Change in Key Outsider States,” *WMD Insights*, December 2007-January 2008 Issue; Valencia, Mark J., “The Proliferation Security Initiative: Making Waves in Asia,” *The International Institute for Security Studies*, October 2005, p. 66.

The State Department website shows that 86 countries participate in the initiative,⁶ but it is unclear what participation entails. Requirements for participation appear to be fairly weak. For example, participating states are *encouraged* to [emphasis added in italics]

- formally commit to and publicly endorse, *if possible*, the Statement of Principles;
- review and provide information on current national legal authorities and *indicate willingness* to strengthen authorities as appropriate;
- identify specific national assets that *might* contribute to PSI efforts;
- provide points of contact for interdiction requests;
- *be willing* to actively participate in PSI interdiction training exercises and actual operations as they arise; and
- *be willing* to consider signing relevant agreements or to otherwise establish a concrete basis for cooperation with PSI efforts.⁷

PSI has no international secretariat, no offices in federal agencies established to support it, no database or reports of successes or failures, and no established funding. Many consider the lack of formal mechanisms an advantage and point instead to high-level meetings in Europe, Australia, and the United States; the agreement on a set of principles in September 2003; and cooperative exercises to test interdiction procedures as evidence of PSI's usefulness.⁸ Others, however, question the seriousness of the Administration's effort as well as its sustainability, as long as no formal mechanisms are created.⁹ The current configuration holds nothing particularly to bind PSI adherents to this cooperative endeavor. An informal coordinating structure has developed, with an operational experts group, which has met 15 times to discuss proliferation concerns and plan future exercises. PSI participants have also hosted four workshops to introduce industry representatives to PSI goals and principles.¹⁰

Since its inception, there has been little by which to measure PSI's success. Secretary of State Rice, on the second anniversary of PSI, announced that PSI was

⁶ See [<http://www.state.gov/t/isn/c19310.htm>].

⁷ U.S. Department of State, Fact Sheet, "Proliferation Security Initiative Frequently Asked Questions (FAQ)," May 26, 2005, available at [<http://www.state.gov/t/np/rls/fs/46839.htm>].

⁸ See [<http://www.state.gov/t/np/rls/fs/23764.htm>] for Statement of Interdiction Principles and [<http://www.state.gov/t/isn/c12684.htm>] for a calendar of all PSI activities.

⁹ See transcript from Senate Government Affairs Committee, Subcommittee on Budget and International Security, hearing on WMD and counterproliferation, June 23, 2004.

¹⁰ U.S. General Accounting Office, "U.S. Efforts to Combat Nuclear Networks Need Better Data on Proliferation Risks and Program Results," GAO-08-21, October 2007, at [<http://www.gao.gov/new.items/d0821.pdf>].

responsible for 11 interdictions in the previous nine months.¹¹ On June 23, 2006, Under Secretary for Arms Control and International Security Robert Joseph reported that between April 2005 and April 2006, PSI partners worked together “on roughly two dozen separate occasions to prevent transfers of equipment and materials to WMD and missile programs in countries of concern.”¹² As of July 2006, Under Secretary Joseph said that PSI had “played a key role in helping to interdict more than 30 shipments.”¹³ He also said that PSI cooperation stopped exports to Iran’s missile program and the export of heavy water-related equipment to Iran’s nuclear program. However, whether and to what extent PSI has contributed to these interdictions is unclear; they may have happened even without PSI. Moreover, even if PSI has resulted in more interdictions than before, the increase may simply be the product of an upsurge in proliferation activity.

PSI also faces several implementation challenges. For example, some states of proliferation or transshipment concern, such as Malaysia, Pakistan, South Korea, and South Africa, remain outside the initiative.¹⁴ It should be noted, however, that some countries that are not ready to sign up as full participants do attend PSI exercises as observers.¹⁵ Other countries, such as South Korea, may participate indirectly in interdictions or information exchange related to WMD proliferation without becoming a full participant in PSI.¹⁶

Another issue affecting implementation is conclusion of ship-boarding agreements, particularly with “flags of convenience” countries. So far, the United States has signed eight ship-boarding agreements: in 2004 with Panama, the Marshall Islands, and Liberia; in 2005 with Croatia, Cyprus, and Belize, and in 2007 with Malta and Mongolia. Such arrangements typically allow two hours to deny U.S. personnel the right to board a ship.

¹¹ See [<http://www.state.gov/secretary/rm/2005/46951.htm>] for the text of Secretary Rice’s speech.

¹² Under Secretary for Arms Control and International Security Robert Joseph, Warsaw, Poland, June 23, 2006. Available at [<http://www.state.gov/t/us/rm/68269.htm>].

¹³ Under Secretary for Arms Control and International Security Robert Joseph, Remarks to the Capitol Hill Club, July 18, 2006, at [<http://www.state.gov/t/us/rm/69124.htm>].

¹⁴ U.S. General Accounting Office, “U.S. Efforts to Combat Nuclear Networks Need Better Data on Proliferation Risks and Program Results,” GAO-08-21, October 2007, at [<http://www.gao.gov/new.items/d0821.pdf>].

¹⁵ For example, India and Malaysia were observers at the October 13-15, 2007, “Pacific Shield 07” exercise off the coast of Japan. Stephanie Leggi, “Proliferation Security Initiative Exercise Hosted by Japan Shows Growing Interest in Asia But No Sea Change in Key Outsider States,” *WMD Insights*, December 2007-January 2008 Issue.

¹⁶ South Korea and China both consider PSI actions that take place in Northeast Asia as potentially harmful to the delicate Six-Party nuclear negotiations with North Korea. Internal political pressures have kept India out of formal PSI participation, as opposition political parties argue against closer security cooperation with the United States. Myung Jin Kim, “South Korea-North Korea Relations: Influence of the PSI on North Korea,” *Strategic Insights*, Volume V, Issue 7, September 2006, at [<http://www.ccc.nps.navy.mil/si/2006/Sep/kimSep06.asp>].

When a merchant ship registers under a foreign flag to avoid taxes, save on wages or avoid government restrictions, it is called a flag of convenience (FOC). FOCs are of particular concern for proliferation reasons because of looser government regulations over their shipments and the ease with which ships can switch from one registry to another to avoid tracking. Thirty-two countries have flags of convenience registries.¹⁷ Of these, Belize, Cambodia, Cyprus, Honduras, Liberia, Malta, Marshall Islands, Mongolia, Panama, and Sri Lanka are already PSI participants. Panama and Liberia are said to have the highest volume of FOC global trade.

Critics of PSI urge changes to the initiative, such as increased transparency, expansion of participants, and improved coordination, rather than an end to the program. For example, the 9/11 Commission recommended that the United States seek to strengthen and expand PSI's membership.¹⁸ The General Accounting Office published a report in September 2006, "Better Controls Needed to Plan and Manage Proliferation Security Initiative Activities," that recommended the following: (1) the Departments of Defense and State establish clear roles and responsibilities, interagency communication mechanisms, documentation requirements and indicators to measure program results; (2) the Departments of Defense and State develop a strategy to work with PSI-participating countries to resolve issues that are impediments to interdictions; and (3) a multilateral mechanism be established to increase coordination, cooperation, and compliance among PSI participants.¹⁹ These recommendations were also endorsed by Congress in P.L. 110-153, The Implementing Recommendations of the 9/11 Commission Act of 2007. The President is required to submit a report to Congress on implementation of these recommendations by the end of January 2008.²⁰

PSI Objectives, Methods, and Targets

PSI's long-term objective is to "create a web of counter-proliferation partnerships through which proliferators will have difficulty carrying out their trade in WMD and missile-related technology."²¹ It functions as an "activity, not an organization" and envisions countries working in concert to bolster their national

¹⁷ As designated by the International Transportation Workers' Federation, the following are flag of convenience states: Antigua and Barbuda, Bahamas, Barbados, Belize, Bermuda (UK), Bolivia, Burma, Cambodia, Cayman Islands, Comoros, Cyprus, Equatorial Guinea, French International Ship Register (FIS), German International Ship Register (GIS), Georgia, Gibraltar (UK), Honduras, Jamaica, Lebanon, Liberia, Malta, Marshall Islands (USA), Mauritius, Mongolia, Netherlands Antilles, North Korea, Panama, Sao Tome and Príncipe, St. Vincent, Sri Lanka, Tonga, and Vanuatu. See [<http://www.itfglobal.org/flags-convenience/flags-convenien-183.cfm>].

¹⁸ *Report of the 9/11 Commission*, p. 381.

¹⁹ GAO-06-937C, as summarized in P.L. 110-153.

²⁰ 180 days after enactment (August 3, 2007), or January 30, 2008.

²¹ Bolton, March 30, 2004 HIRC testimony.

capacities to interdict WMD shipment using a “broad range of legal, diplomatic, economic, military and other tools.”²²

Several approaches may help improve interdiction efforts. First, participating states have agreed to review their own relevant national legal authorities to ensure that they can take action. Second, participating states resolve to take action, and to “seriously consider providing consent … to boarding and searching of its own flag vessels by other states.”²³ Third, participating states seek to put in place agreements, such as ship-boarding agreements, with other states in advance, so that no time is lost should interdiction be required. A fourth approach is to conduct interdiction exercises. PSI participants reportedly have trained for “maritime interdiction in the Mediterranean, Arabian Sea, and Western Pacific Ocean, all areas that are particularly prone to proliferation trafficking.”²⁴ In all, PSI has conducted 32 joint interdiction exercises as of October 2007.²⁵

As many describe it, PSI relies on the “broken tail-light scenario”: officials look for all available options to stop suspected transport of WMD or WMD-related items. In practice, cargos can be seized in ports if they violate the host state’s laws, hence the focus on strengthening domestic laws. On the high seas, ships have the rights of freedom of the seas and innocent passage under the Law of the Sea Convention and customary international law. The boarding agreements may allow for boarding, but not necessarily cargo seizure.²⁶ According to a State Department lawyer, as of 2005, no authority had been worked out to legally seize cargo. In addition, a key gap in the PSI framework is that it applies only to commercial, not government, transportation. Government vehicles (ships, planes, trucks, etc.) cannot legally be interdicted. Thus, the missile shipments picked up by a Pakistani C-130 in the summer of 2002 in North Korea, reported by the *New York Times* in November 2002, could not have been intercepted under PSI.

The October 2003 interdiction of a shipment of uranium centrifuge enrichment parts from Malaysia to Libya illustrates the need for multilateral cooperation. The Malaysian-produced equipment was transported on a German-owned ship, the *BBC China*, leaving Dubai, passing through the Suez Canal. The United States reportedly asked the German shipping company to divert the ship into the Italian port of Taranto, where it was searched. Passage through the highly regulated Suez Canal may give authorities an opportunity to delay ships and find a reason to board them. While some administration officials have cited this as an example of a successful PSI

²² “Proliferation Security Initiative Frequently Asked Questions,” U.S. State Department Bureau of Nonproliferation Fact Sheet, January 11, 2005, at [http://www.state.gov/t/isn/rls/fs/32725.htm].

²³ See September 2003 Statement of Interdiction Principles.

²⁴ Bolton, March 30, 2004 HIRC testimony.

²⁵ See list of all activities at [http://www.state.gov/t/isn/c12684.htm]

²⁶ See CRS Report RL32097, *Weapons of Mass Destruction Counterproliferation: Legal Issues for Ships and Aircraft*, by Jennifer K. Elsea.

interdiction, others have argued it was part of a separate operation, and thus should not be used as evidence of PSI's success.²⁷

In an interview in November 2003, then-Secretary Bolton suggested that WMD interdiction would target shipments to rogue states and terrorists that pose the most immediate threat.²⁸ In the case of rogue states, it may be relatively easy to target shipments to Iran and North Korea and their transhipment points, but targeting terrorist acquisitions may place a serious strain on intelligence gathering.

The Bush Administration has emphasized that under PSI, states will develop “new means to disrupt WMD trafficking at sea, in the air, and on land.”²⁹ On February 11, 2004, President Bush proposed expanding PSI to address more than shipments and transfers, including “shutting down facilities, seizing materials, and freezing assets.”³⁰ To some observers, it is difficult to imagine how national authorities could shut down facilities, seize materials, and freeze assets, particularly if the material and equipment in question is dual-use (which would normally place the burden on the export destination).

Another approach has been to target financial assets. In June 2005, President Bush issued Executive Order 13382, which prohibits U.S. persons from doing business with entities designated because of their proliferation activities.³¹ On June 23, 2006, 66 PSI states participated in a High Level Political Meeting in Poland, which focused on developing closer ties with the business community to further prevent any financial support to the proliferation of WMD.³²

PSI Legal Authorities

U.S. officials have been careful to emphasize that PSI actions, including ship boardings and seizures, would be carried out in accordance with national legal authorities and international law and frameworks. The Statement of Interdiction Principles commits participants to “review and work to strengthen their relevant national legal authorities where necessary to accomplish these objectives, and work

²⁷ Assistant Secretary of State John Wolf told *Arms Control Today* that the BBC China was a “separate” operation from PSI. The interdiction was reportedly part of an intelligence operation against the A.Q. Khan network and was timed to spur Libyan disarmament. See Wade Boese, “Key U.S. Interdiction Initiative Claim Misrepresented,” [http://www.armscontrol.org/act/2005_07-08/Interdiction_Misrepresented.asp]; Ron Suskind, *The One Percent Doctrine*, 2006, pp. 268-269.

²⁸ “The Proliferation Security Initiative: An Interview with John Bolton,” *Arms Control Today*, December 2003.

²⁹ Ibid.

³⁰ See [<http://www.whitehouse.gov/response/index.html>] for text of President’s speech.

³¹ See [<http://www.whitehouse.gov/news/releases/2005/06/20050629.html>] for text of Executive Order 13382, June 29, 2005.

³² See “Cracow Proliferation Security Initiative High Level Political Meeting,” Summary from the Polish government, at [<http://www.psi.msz.gov.pl/index.php?&PHPSESSID=50078a65ad2acf1dd3d7f518b7148e58>].

to strengthen when necessary relevant international law and frameworks in appropriate ways to support these commitments.” There are differing opinions on whether the United States should work more aggressively to expand international legal authority for interdictions on the high seas and in international airspace. This would include adopting the 2005 Protocol to the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA), which would require states to criminalize transportation of WMD materials and their delivery vehicles. This protocol also “creates a shipboarding regime based on flag state consent similar to agreements that the United States has concluded bilaterally as part of the Proliferation Security Initiative.”³³ A further step would be adoption of a U.N. resolution that would provide for interdiction activities under Section VII of the U.N. Charter, which allows the Security Council to authorize sanctions or the use of force to compel states to comply with its resolutions.

The Bush Administration has in the past attempted to expand international legal authority for PSI and related activities. On April 28, 2004, the U.N. Security Council passed UNSC Resolution 1540, which requires all states “to criminalize proliferation, enact strict export controls and secure all sensitive materials within their borders.”³⁴ While UNSCR 1540 was adopted under Chapter VII of the UN Charter, the resolution did not provide any enforcement authority, nor did it specifically mention interdiction or PSI. Early drafts of the resolution put forward by the United States had included explicit language calling on states to interdict if necessary shipments related to WMD. However, over China’s objections, the word “interdict” was removed and was changed to “take cooperative action to prevent illicit trafficking” in WMD.³⁵

UNSCR 1540 called on states to establish and enforce effective domestic controls over WMD and WMD-related materials in production, use, storage, and transport; to maintain effective border controls; and to develop national export and trans-shipment controls over such items, all of which should help interdiction efforts. In April 2006, the U.N. Security Council adopted Resolution 1673, which extended the mandate of the 1540 Committee for two years and asked the Committee to formally report to the Security Council, no later than April 27, 2008, a “compilation of information on the status of States’ implementation of all aspects of resolution 1540.”³⁶

The Law of the Sea Convention may affect PSI implementation and is now under consideration in the Senate. The treaty is supported by the President and the Pentagon as a way to enhance PSI efforts. In a letter from the Joint Chiefs of Staff

³³ Treaty Document 110-8. See [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110_cong_documents&docid=f:td008.110.pdf].

³⁴ See [http://www.un.org/Docs/sc/unsc_resolutions04.html] for text of UNSCR 1540.

³⁵ For a history of the 1540 Resolution’s evolution, see Merav Datani, “Security Council Resolution 1540: WMD and Non-State Trafficking,” *Disarmament Diplomacy*, Issue No. 79, April/May 2005, at [<http://www.acronym.org.uk/dd/dd79/79md.htm>].

³⁶ See [http://www.un.org/Docs/sc/unsc_resolutions06.htm] for the text of S/RES/1673 (2006), April 17, 2006.

sent to the Senate in June 2007, the Joint Chiefs argued for ratification, explaining that the convention “codifies navigation and overflight rights and high seas freedoms that are essential for the global mobility of our armed forces.”³⁷ The letter said that the Convention supports the efforts of the Proliferation Security Initiative. Senior military officials have also publicly said that not being a party hinders efforts to recruit new PSI participants.³⁸

Issues for Congress

It may continue to be difficult for Congress to track PSI’s success. However, reporting and coordination requirements now in public law may result in more information than was available in the past. The Implementing Recommendations of the 9/11 Commission Act of 2007 (P.L. 110-53) requires the President to include PSI activities for each involved Agency in his budget request, and requires submission to Congress of joint DOD-DOS reports to include detailed three-year plans for PSI activities no later than the first Monday in February each year.³⁹ The Act also recommends that PSI be expanded, that the United States should use the intelligence and planning resources of the NATO alliance, make participation open to non-NATO countries, and encourage Russia and China to participate.⁴⁰ It gives the sense of Congress that PSI should be strengthened and expanded by establishing a clear authority for PSI coordination and increasing PSI cooperation with all countries. The proposed bill, Nuclear Weapons Threat Reduction Act of 2007 (S. 1977), introduced on August 2, 2007, calls for strengthening PSI through appropriate measures.⁴¹

Geographic expansion of PSI participants remains a key issue — particularly how to engage China and India, as well as states in important regions like the Arabian Peninsula.⁴² Congress may also consider how intelligence resources are handled. Is intelligence sufficient and are there intelligence-sharing requirements with non-NATO allies? Also, how is PSI coordinated with other federal interdiction-related programs (e.g., export control assistance)? One potential complication for

³⁷ “Military Officials Urge Accession to Law of the Sea Treaty,” *Armed Forces Press Service*, December 10, 2007.

³⁸ Capt. Patrick J. Neher, Judge Advocate General’s Corps, Letter to the Editor, *The Washington Times*, November 14, 2007, at [<http://www.washingtontimes.com/apps/pbcs.dll/article?AID=/20071114/EDITORIAL/111140015&template=nextpage>]; “Military, Civilian Officials Urge Accession to Law of Sea Treaty,” *American Forces Press Service*, September 28, 2007, at [<http://www.militaryconnection.com/news/september-2007/law-sea-treaty.html>].

³⁹ Sections 1821 and 1822, The Implementing Recommendations of the 9/11 Commission Act of 2007, P.L. 110-53.

⁴⁰ Note that Russia joined PSI as a full participant in May 2004.

⁴¹ Members of the 109th Congress introduced eight bills and resolutions that called for strengthening, expanding, and funding PSI (S.Con.Res. 36, H.Con.Res. 133, S.Con.Res. 40, H.R. 422, H.R. 665, H.R. 5017/S. 3456, P.L. 109-102 (Section 599A), and S. 2566).

⁴² “The Proliferation Security Initiative: Three Years On,” *British American Security Information Council*, August 2, 2006. See [<http://www.basicint.org/pubs/Notes/BN060802.pdf#search=%222%20august%20psi%20basic%20notes%22>].

congressional oversight of PSI is the absence of a way to measure PSI's success, relative to past efforts. Congress may choose to consider, again, how successfully the recommendations of P.L. 110-153 have been followed, and whether more non-proliferation policy coordination may be required at higher levels for such far-reaching programs.

On October 1, 2007, the Senate Committee on Foreign Relations received the Protocol of 2005 to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (the "2005 SUA Protocol") for consideration.⁴³ The protocol was signed by the United States on February 17, 2006. In President Bush's note to the Senate, he summarizes the importance of this protocol to PSI activities: "The 2005 SUA Protocol also provides for a ship-boarding regime based on flag state consent that will provide an international legal basis for interdiction at sea of weapons of mass destruction, their delivery systems and related materials."

As mentioned above, the Senate is considering consent to ratification of the Law of the Sea Convention which military and administration officials argue will positively impact PSI implementation. Critics of the Treaty cite concerns about limiting U.S. sovereignty. The Senate Foreign Relations Committee approved the treaty on October 31, 2007. A floor vote has not yet been scheduled.

⁴³Treaty Document 110-8. See [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110_cong_documents&docid=f:td008.110.pdf].